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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/519,529

06/06/2005

Quy Dao Nguyen

NGUYEN

2546

21710

7590

09/25/2006

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EXAMINER

EVANS, FANNIE L

ART UNIT

PAPER NUMBER

2877

DATE MAILED: 09/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/519,529

Applicant(s)

NGUYEN ET AL.

Examiner

F. L. Evans

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☒ Claim(s) 4 and 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on December 27, 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 071505.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***The Preliminary Amendment***

Receipt is acknowledged of the preliminary amendment filed on December 27, 2004. The amendment has been placed of record in the application.

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. § 119(a)-(d), which papers have been placed of record in the file.

### ***The Drawings***

The drawings are objected to as failing to comply with 37 CFR § 1.84(p)(5) because they do not include the reference sign 23 mentioned in line 33 on page 3 of the description. Corrected drawing sheets in compliance with 37 CFR § 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR § 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***The Information Disclosure Statement***

The prior art cited in the information disclosure statement filed on July 15, 2005 has been considered. The listing of international search report for PCT/FR03/01982 has been removed from "FOREIGN PATENT DOCUMENTS" and placed under "NON PATENT LITERATURE DOCUMENTS."

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis

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for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Da Silva et al (US 5,661,557).

Da Silva et al disclose a Raman spectrometry apparatus containing a source of excitation (LA), optical means (LO, PG10, M20, R10, M10, FE, L2, M1, FS1, L1) of excitation directing a beam of excitation (REX) derived from that source on the sample (EMP), means (L1, FSI, M1, L2, FE, M10, R10, M20, PG10, etc) for collecting the energy diffused by the sample (EMP) containing an inlet diffusion slot (FE), a spectral dispersion system (M10, R10, M20), means for selecting the Raman energy (PG10, M30, R20, M40, FS, L3, M2, FS1), a detector (MAY), optical detection means (L4) directing the Raman energy thus collected and selected to the detector (MAY), characterized in that the optical means (LO, PG10, M20, R10, M10, FE, L2, M1, FS1, L1) of excitation cause the beam of excitation (REX) to be dispersed by the dispersion system (M20, R10, M10), said optical means of excitation containing an inlet slot (T10) and an outlet slot of excitation constituted by the inlet diffusion slot (FE) and selecting wavelength of excitation. The inlet slot (T1) of excitation lies in the focal plane of the dispersion system (M10, R10, M20). The means of selection (PG10, M30, R20, M40, FS, L3, M2, FS1) of the Raman energy include a holographic filter (FS1, lines 28-33 of column 6 ) which stops the excitation wavelength. Applicant's attention is directed to Da Silva et al in its entirety with particular attention directed to Fig. 2A and the text pertaining thereto.

*Allowable Subject Matter*

Claims 4 and 5 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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As to dependent claim 4, the prior art of record, taken alone or in combination, fails to disclose or render obvious a Raman spectrometry apparatus wherein the means of selection of the Raman energy include an operatable micro-mirror reflective system, in combination with the rest of the limitations of the claim.


As to dependent claim 5, the prior art of record, taken alone or in combination, fails to disclose or render obvious a Raman spectrometry comprising means for sampling a portion of the beam of excitation placed between an outlet slot of excitation and the sample which is enabled to control the wavelength of excitation at its maximum of energy by micro-rotation of the dispersion system, in combination with the rest of the limitations of the claim.

***Fax/Telephone Numbers***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner whose telephone number is (571) 272-2414.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr. can be reached on (571) 272-2800 ext 77. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**F. L. EVANS**  
**PRIMARY EXAMINER**  
**ART UNIT 2877**

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September 15, 2006